

## Rural Housing Service, USDA

## § 3550.104

suspended or debarred from participation in federal programs will be handled in accordance with FmHA Instruction 1940-M (available in any Rural Development office).

(h) *Repayment ability (loans only)*. Applicants must demonstrate adequate repayment ability as supported by a budget.

(1) If an applicant does not meet the repayment ability requirements, the applicant can have another party join the application as a cosigner.

(2) If an applicant does not meet the repayment ability requirements, the applicant can have other household members join the application.

(i) *Credit qualifications*. Applicants must be unable to secure the necessary credit from other sources under terms and conditions that the applicant could reasonably be expected to fulfill. Loan applicants must have a credit history that indicates reasonable ability and willingness to meet debt obligations. An applicant with an outstanding judgment obtained by the United States in a federal court, other than the United States Tax Court, is not eligible for a loan or grant from RHS.

(1) Indicators of unacceptable credit include:

(i) Payments on any account where the amount of the delinquency exceeded one installment for more than 30 days within the last 12 months.

(ii) Payments on any account which was delinquent for more than 30 days on two or more occasions within a 12-month period.

(iii) Loss of security due to a foreclosure if the foreclosure has been completed within the last 36 months.

(iv) An outstanding Internal Revenue Service tax lien or any other outstanding tax liens with no satisfactory arrangement for payment.

(v) A court-created or court-affirmed obligation or judgment caused by non-payment that is currently outstanding or has been outstanding within the last 12 months, except for those excluded by paragraphs (i)(2)(i) and (i)(2)(ii) of this section.

(vi) Outstanding collection accounts with a record of irregular payment with no satisfactory arrangements for repayment, or collection accounts that

were paid in full within the last 6 months.

(vii) Non-agency debts written off within the last 36 months or paid in full at least 12 months ago.

(viii) Agency debts that were debt settled within the last 36 months or are being considered for debt settlement.

(ix) Delinquency on a federal debt.

(2) The following will not be considered indicators of unacceptable credit:

(i) A bankruptcy in which debts were discharged more than 36 months prior to the date of application or where an applicant successfully completed a bankruptcy debt restructuring plan and has demonstrated a willingness to meet obligations when due for the 12 months prior to the date of application.

(ii) A non-foreclosure judgment satisfied more than 12 months before the date of application.

(3) When an application is rejected because of unacceptable credit, the applicant will be informed of the reason and source of information.

[61 FR 59779, Nov. 22, 1996, as amended at 67 FR 78331, Dec. 24, 2002]

### § 3550.104 Applications.

(a) *Application submissions*. All persons applying for section 504 loans or grants must file a complete written application in a format specified by RHS. Applications will be accepted even when funds are not available.

(b) *Application processing*. (1) Incomplete applications will be returned to the applicant specifying in writing the additional information that is needed to make the application complete.

(2) An applicant may voluntarily withdraw an application at any time.

(3) RHS may periodically request in writing that applicants reconfirm their interest in obtaining a loan or grant. RHS may withdraw the application of any applicant who does not respond within the specified timeframe.

(4) Applicants who are eligible will be notified in writing. If additional information becomes available that indicates that the original eligibility determination may have been in error or that circumstances have changed, RHS may reconsider the application and the applicant may be required to submit additional information.

(5) Applicants who are ineligible will be notified in writing and provided with the specific reasons for the rejection.

(c) *Processing priorities.* When funding is not sufficient to serve all eligible applicants, applications for assistance to remove health and safety hazards will receive priority for funding. In the case of applications with equivalent priority status that are received on the same day, preference will be extended to applicants qualifying for a veterans preference. After selection for processing, requests for assistance are funded on a first-come, first-served basis.

**§ 3550.105 Site requirements.**

(a) *Rural areas.* Loans may be made only in rural areas designated by RHS. If an area designation is changed to nonrural an existing RHS borrower may receive 504 assistance.

(b) *Not subdividable.* The site must not be large enough to subdivide into more than one site under existing local zoning ordinances.

**§ 3550.106 Dwelling requirements.**

(a) *Modest dwelling.* The property must be one that is considered modest for the area, must not be designed for income producing purposes, have an in-ground pool, or have a market value in excess of the applicable maximum loan limit, in accordance with § 3550.63.

(b) *Post-repair condition.* Dwellings repaired with section 504 funds need not be brought to the agency development standards or thermal performance standards of 7 CFR part 1924, subpart A, nor must all existing hazards be removed. However, the dwelling may not continue to have major health or safety hazards.

(c) *Construction standards.* All work must be completed in accordance with local construction codes and standards. When potentially hazardous equipment or materials are being installed, all materials and installations must be in accordance with the applicable standards in 7 CFR part 1924, subpart A.

[61 FR 59779, Nov. 22, 1996, as amended at 67 FR 78331, Dec. 24, 2002]

**§ 3550.107 Ownership requirements.**

The applicant must have an acceptable ownership interest in the property as evidenced by one of the following:

(a) *Full fee ownership.* Acceptable full fee ownership is evidenced by a fully marketable title with a deed vesting a fee interest in the property to the applicant.

(b) *Secure leasehold interest.* A written lease is required. For loans, the unexpired portion of the lease must not be less than 2 years beyond the term of the promissory note. For grants, the remaining lease period must be at least 5 years. A leasehold for mutual help housing financed by U.S. Department of Housing and Urban Development (HUD) on Indian lands requires no minimum lease period and constitutes acceptable ownership.

(c) *Life estate interest.* To be acceptable, a life estate interest must provide the applicant with rights of present possession, control, and beneficial use of the property. For secured loans, generally persons with any remainder interests must be signatories to the mortgage. All of the remainder interests need not be included in the mortgage to the extent that one or more of the persons holding remainder interests are not legally competent (and there is no representative who can legally consent to the mortgage), cannot be located, or if the remainder interests are divided among such a large number of people that it is not practical to obtain the signatures of all of the remainder interests. In such cases, the loan may not exceed the value of the property interests owned by the persons executing the mortgage.

(d) *Undivided interest.* An undivided interest is acceptable if there is no reason to believe that the applicant's position as an owner-occupant will be jeopardized as a result of the improvements to be made, and:

(1) In the case of unsecured loans or grants, if any co-owners living or planning to live in the dwelling sign the repayment agreement.

(2) In the case of a secured loan, when one or more of the co-owners are not legally competent (and there is no representative who can legally consent to the mortgage), cannot be located, or the ownership interests are divided